

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE SIDE JURISDICTION**

CRIMINAL APPLICATION NO.509 OF 2016

Swapnil Sanjay Tahsildar

...Applicant

vs.

The State of Maharashtra & Anr.

...Respondents

Mr. Shekhar Arvind Ingawale for the Applicant.

Mr. S. K. Shinde, GP for the State/Respondent No.1.

Mr. K. S. Patil for the Respondent No.2.

CORAM : A.S.OKA AND

ANUJA PRABHUDESSAI, JJ.

DATE : 7th FEBRUARY 2017.

P.C.:

. Heard the learned counsel appearing for the Applicant.

2. The prayer is for quashing the First Information Report as against the Applicant. The First Information Report is registered for the offences punishable under sections 147, 148, 149, 307 read with 41 and 135 of the Bombay Police Act, 1951.

3. The learned counsel for the Applicant has invited our attention to another First Information Report registered against the Applicant on 29th March 2016. He urged that on 29th March 2016 the concerned police officer filed a report to the Judicial Magistrate, First class, Kolhapur setting out the reasons for the arrest of the Applicant, by stating that he was arrested on suspicion. He pointed out the orders passed by the Judicial Magistrate to show that while in police custody, the Applicant was subjected to illtreatment. He invited our attention to the affidavits of the prosecution witnesses filed in Bail Application filed by the Applicant. He submitted that the witnesses had no reason to file false affidavits, when the Applicant was in custody.

4. We have perused the investigation papers. There are statements of atleast two witnesses recorded during investigation, one

of whom has specifically assigned a role to the Applicant in the assault on him. The other witness has also stated about the presence of the Applicant. In the statement of the first informant, on the basis of which the impugned First Information Report is registered, six persons have been named and he stated that there were 8-10 other accused who were involved in the offence.

5. At this stage, the affidavits which the Applicant is relying cannot be looked into. Suffice it to say that the investigation papers show that there is a material on record to show complicity of the Applicant. Hence, this is not a case to exercise powers under section 482 of the Criminal Procedure Code, 1973 for quashing the FIR. Accordingly, we reject the Application.

6. We make it clear that the observations made in this Application are only tentative observations for dealing with the prayer for quashing of the FIR. All contentions of the parties on merits are kept open.

(ANUJA PRABHUDESSAI,J)

(A.S.OKA,J.)